

Minutes of the Kansas Sentencing Commission Meeting February 13, 2004

The Honorable Ernest L. Johnson, Chairman, called the Kansas Sentencing Commission meeting to order on February 13, 2004, at 1:40 p.m. The meeting was held in the Senate Room of the Jayhawk Tower Building, Topeka, KS.

Attendance:

Members: Honorable Ernest L. Johnson, Chairman; Paul Morrison, District Attorney, Vice Chairman; Honorable Eric Rosen; Honorable Robert J. Lewis, Jr.; Senator Greta Goodwin; Representative Janice Pauls; Chuck Simmons, Designee for Office of Secretary of Corrections; Annie Grevas, Director of Community Corrections, 28th Judicial District; Marilyn Scafe, Kansas Parole Board; Chris Mechler, Office of Judicial Administration; Kevin Graham, Designee for Office of Attorney General; Kathleen Lynch, Private Defense Attorney; Dr. Donald Jackson, Public Member. Staff: Patricia Biggs, Executive Director; Julia Butler, Staff Attorney; Lora Moison, Research Analyst; Janice Brasher, Grant Administrator; Brenda Harmon, Administrative Assistant. Guests: Margie Phelps, KDOC; Robin Leigh, England.

Approval of the Minutes

The Chairman referred to the minutes of the January 8, 2004, Kansas Sentencing Commission meeting and asked for a motion to approve. A motion was made by Ms. Annie Grevas, and seconded by Ms. Chris Mechler, to approve the minutes of the January 8, 2004, Kansas Sentencing Commission meeting. The motion carried.

2004 Legislative Update

Ms. Julia Butler gave an overview of legislation enacted to date during the 2004 Legislative Session. Twenty-one bills have been introduced into the House. Thirteen Bills have been introduced into the Senate. A complete listing of all Bills in Committee, and their current status, was provided to Commission members.

Ms. Patricia Biggs discussed the volume of Legislative Requests received to date by the Sentencing Commission regarding Impacts. At this point in the Session, the number of Impacts has exceeded the total number received all of the 2003 Legislative Session.

Agency Testimony: Request by Governor's Office

Ms. Biggs discussed a request received from the Governor's Office that asks state agencies to preview them on any testimony that has been prepared for the Legislature. The Governor's Office requests this testimony be shared ahead of time in hopes two different agencies will not have conflicting testimony during a hearing. The Commission, however, does not fall under the guidelines of being a state agency under the Governor's Office.

Mr. Kevin Graham made a motion to have the Sentencing Commission provide the Governor's Office with a draft of testimony if it is prepared in advance and the deadline can be met. In addition, if anyone else requests a copy, it can also be provided to them at the same time. Following a discussion by Commission members, it was decided since the Sentencing Commission is not an agency under the Executive Branch, there is no need to respond in writing at this time. Mr. Graham withdrew the motion.

Senate Bill 123 – Progress to Date

Thomas Stanton Letter

Chairman Johnson discussed a letter from Thomas Stanton, Deputy Reno County District Attorney, which was received recently by all Representatives and Senators. The letter voices Mr. Stanton's concerns with issues related to treatment options under SB 123 for offenders that live out of state, and offenders utilizing treatment at facilities not approved by the KDOC for SB 123 treatment.

House Bills 2766 and 2831

Ms. Biggs discussed House Bills 2766 and 2831. HB 2766 puts retroactivity back into SB 123, but it has a lot of the same language problems the Thomas Stanton letter points out. There is language clean up that needs to be done. HB 2831 basically takes folks that are now treatment bound under SB 123 and sends them to a mandatory in-prison treatment, which would be moving Topeka Juvenile under DOC and puts them there. Commission members discussed concerns that either one of these Bills could flood and crush the SB 123 system, or dry up the pool of offenders and crush the system.

Quarterly Conferences Scheduled

Ms. Biggs provided information on the four SB 123 Quarterly Conferences that have been scheduled throughout the state. Commission and DOC staff will be in attendance to present updated information and help answer questions. There will be DOC representatives from the Program side and the Community Corrections side at each Conference. The Conference dates and locations are Wichita on February 25th; Topeka on April 21st; Great Bend on July 28th; and Kansas City on October 27th.

Counties not using current Journal Entry Form

Ms. Biggs provided Commission members with a chart showing which counties had mailed Journal Entry of Judgment Forms during the past three-week period. Data was received from 61 counties during that time, and of those received; only 17 counties are using the newest Journal Entry Form, as contained in the 2003 Desk Reference Manual. Some of those 17 counties are only using it sporadically. Due to the new Journal Entry Form not being used, SB 123 data is not being included. A letter will be mailed to individual counties, along with the chart, to thank them if they are complying, and if they are not complying, asking them to come in to compliance immediately. If the Commission has enough of a supply on hand, a floppy diskette, which has a copy of the current Journal Entry Form, will also be included with each letter.

Update on Treatment Activity

Ms. Biggs provided a SB 123 Activity Report for November 1, 2003 through February 6, 2004. The DOC prepares this report, based on the data entered by Community Corrections. It tracks treatment activity.

Payments Update

Through February 12, 2004, a total of \$30,576.75 has been disbursed by the Sentencing Commission in response to invoices received from certified SB 123 treatment providers and verified by the supervising Community Corrections agency. The breakdown as of that date:

- 81 Assessments - \$14,910.00
- 5 Intermediate/Residential treatment invoices - \$8,700.00
- 14 Outpatient-Group treatment invoices - \$2,803.75
- 11 Outpatient-Individual treatment invoices - \$1,890.00
- 2 Offenders/Reintegration/Halfway House invoices - \$1,073.00
- 1 Intensive Outpatient treatment invoice - \$1,200.00

Post Audit follow-up letter

Ms. Biggs discussed a follow-up letter received from the Chairman of the Post Audit. He was responding to a letter that had been received in their office, which stated there were three areas of concern he wanted to address. Ms. Biggs has already provided documentation showing the three areas in question are non-issues.

Update on Johnson County Risk/Needs Pilot Project

Ms. Margie Phelps, Director of Release Planning, KDOC, gave an update on the status of the Johnson County Risk/Needs Pilot Project. From June – December 2003 agencies and the Court worked through issues regarding the use of the instrument. Assessments are now done with software on the computer, which allows data to be captured.

To enable this project to occur, the legislature amended KSA 75-5291 (a)(3) authorizing the Court to assign offenders to supervision with community corrections or probation based on the assessment instrument used. In December 2003 the Court indicated a desire to extend this exception for another two years to continue with this project. The current exception expires July 1, 2004. The modification to extend the Johnson County Project for two years to July 1, 2006, is now in HB 2638, which is a Bill to clean up language for Community Corrections.

A motion was made by Vice Chairman Paul Morrison and seconded by the Honorable Eric Rosen to have the Sentencing Commission ask the Legislature to extend the Johnson County Risk/Needs Pilot Project for two years. The motion carried.

Determination of Inmate Custody Levels

Mr. Chuck Simmons, KDOC, discussed the Inmate Classification System, and how it is used by the Department of Corrections to provide inmate assessment relative to the risk they present to themselves, other inmates, staff and the community. The underlying intent of the classification system is to maintain the individual at the least restrictive level of supervision possible, given the level of risk to the system. The classification system used is based on eleven point criteria and one non-point based risk criteria. Minimum custody = 0-3 pts; Medium custody = 4-9 pts; Maximum custody = 10 and above.

Currently, there are no maximum beds available in any facility. There are 15-20 medium custody beds available for male inmates and about 200 medium custody beds available for female inmates. There are about 200 beds available for male minimum custody, with plenty for females. Lower custody inmates can be moved to an upper custody setting, but upper custody inmates cannot be moved to a lower custody bed. On February 12, 2004, the KDOC set a new record with 9,229 inmates, in addition to a minimum of 110 people scheduled and waiting to come in. Six units are over capacity, and 48 inmates have been sent to a facility in Texas, with 48 more to be sent to that facility on February 24th.

Truth in Bed Availability

Dr. Donald Jackson raised a concern of having misconceptions made about DOC bed availability. He felt statements showing DOC beds were at capacity, followed by statements showing there are more beds than needed in some lower custody facilities, were confusing to the Legislature and the public. Mr. Simmons stated the monthly projections given to the Legislature, the Governor's Office and the public media are always broken down by gender split and custody levels, showing how many inmates are in each classification. This clearly shows the maximum custody facilities are where additional beds are needed, since these inmates cannot be moved to facilities not equipped for maximum custody.

KSC Staff Positions Open

Ms. Biggs announced two staff positions are still open with the Sentencing Commission. One is for an Accountant II position, which handles SB 123 payments. The other is a Research Analyst position, to work on JJA projections.

Kansas Criminal Justice Coordinating Council – House Bill 2790

Ms. Biggs provided an update on the status the Kansas Criminal Justice Coordinating Council. Although the grants were moved from the Sentencing Commission to the Governor's office, by statute the Commission retained the function of Criminal Justice Coordinating Council staff. The Governor's Office assured this would be taken care of during this Legislative Session. HB 2790 will take care of this by removing Kansas Sentencing Commission staff from KCJCC.

Next Meeting

The next Kansas Sentencing Commission meeting was scheduled for Friday, March 19th, 2004, at 1:30 p.m.

The Chairman adjourned the meeting.